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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KLAMATH RIVERKEEPER, a nonprofit
public benefit corporation;
HOWARD McCONNELL;
LEAF G. HILLMAN;
ROBERT ATTEBERY; and
BLYTHER REIS;

Plaintiffs,

vs.

PACIFICORP, INC., an Oregon
Corporation;

Defendant.

Case No. CV 07-06199 WHA

[PROPOSED] ORDER RE
ADMINISTRATIVE MOTION FOR
CLARIFICATION

Civil L.R. 7-11

Judge: Honorable William H. Alsup
Department: Courtroom 9, 19th Floor

ORDER

On February 27, 2008, Plaintiffs filed an Administrative Motion for Clarification of Order (“Motion for Clarification”). Plaintiffs requested that the Court clarify its February 22, 2008, Order requiring that “all plaintiffs’ counsel sign and file a written undertaking to be jointly and severally responsible for all such incremental costs and fees attributable to the delay” of two and one half months between the date set in the case management order for amending the complaint (September 27, 2007), and the date the second action was filed (December 6, 2007). February 22 Order, p. 8. Specifically, Plaintiffs requested the Court define what the term “incremental increase” in fees and costs encompasses, to allow Plaintiffs to draft and understand the scope of the undertaking. *See* Motion for Clarification, p. 1:23-24. The following is intended to provide that clarification.

Under the Court’s February 22 Order, Plaintiffs are required to pay for “reasonable costs and fees attributable to the delay” to ensure Defendant PacifiCorp, Inc. is not prejudiced by reason of the two and a half month delay. February 22 Order, p. 8:13-14. Defendant may, for example, recover fees and costs for tasks performed on discovery during the two and one half month window that must be repeated in response to the new claim. Defendant is not however entitled to fees and costs for “defending” the new claim, Order, p. 8:12-13, including filing, briefing, and arguing the Motion to Dismiss; any additional written discovery regarding the new claim; and depositions defending or attacking the new claim.

IT IS SO ORDERED.

Dated: _____

William Alsup
United States District Judge